

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

**Thami SMIRES et al.**

Group Art Unit: **3624**

Serial No: **10/658,405**

Examiner: **S. Meinecke Diaz**

Filed : **September 10, 2003**

For : **METHOD AND APPARATUS FOR CONDUCTING  
TRANSACTIONS GENERATED AT  
POINT-OF-SALE LOCATIONS**

**RESPONSE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Office Action of January 9, 2008 and the references cited therein have now been carefully studied. Reconsideration and allowance of this application are earnestly solicited.

The undersigned appreciates the Examiner's indication that the articles included in the Declaration filed on October 4, 2007 (Exhibits I and II provided herewith for the Examiner's convenience) does serve as evidence that most of the features of claim 1 were reduced to practice prior to the earliest priority date of July 22, 2002 of the reference to Kim. However, according to the Examiner, the feature of allowing a merchant to view and alter a transaction was not shown in Exhibits I and II.

It is maintained that the present invention as recited in the claims was conceived and reduced to practice prior to July 22, 2002. Consequently, applicant is enclosing herewith a second Declaration Under 37 C.F.R. §1.131 signed by all of the inventors attesting to this fact. This Declaration includes both Exhibits I

and II which were previously submitted to the U.S. Patent Office as well as newly cited Exhibits III and IV which do include facts showing that the recited feature "a transaction manager connected to said credit card service for managing a website allowing the merchant associated with each of the point-of-sale terminal devices to view their respective transactions as well as altering the transactions" was reduced to practice prior to July 22, 2002.

Exhibit III is a user manual for the "ChargeAnywhere™" system and, as indicated on each page of this manual, was produced in 2001, prior to the July 22, 2002 earliest prior date of the Kim reference. The Examiner's attention is directed to the section entitled "Processing a Void" in which the merchant can completely void the transaction. It is submitted that the voiding of this transaction is an alteration of the transaction as described in paragraph [0008] of the instant application in which it is stated "A website is included in the present system allowing merchants to review their transaction in real time, void (emphasis added) transactions and to perform additional services." Furthermore, paragraph [0019] indicates that the transaction manager would allow merchants to cancel the transaction. Since the second definition of the word "alter" appearing in the 10th Edition of the Merriam-Webster's Collegiate Dictionary is "to become different", it is submitted that the voiding or cancellation of a transaction is the same as altering that transaction, as contemplated by the present invention and recited in claim 1.

Exhibit IV also describes the "ChargeAnywhere™" device. The transaction manager is shown on pages 11 and 12. Under the section entitled "Transaction Search Criteria" are three sections designated as Cab Num, Driver Num and Inv. Number. These sections are used by the merchant to add information to a transaction as it is being reviewed by the merchant. This feature would allow, for example, the merchant to specifically track various drivers in a

fleet. It is submitted that this type of alteration of a transaction was described in paragraph [0005] which it is stated "This system would also allow each of the merchants to utilize the website to view their transactions, as well as changing the transaction, if required." Additionally, as stated in the last sentence of paragraph [0016], "The transaction data, which is now entered into the database 34, would be for the purpose of billing, viewing by a particular merchant, as well as reporting each transaction." It is submitted that the transaction data which is entered into the database is the type of information shown in the aforementioned sections of the transaction manager as illustrated on pages 11 and 12 of Exhibit IV. Although there is no date listed in Exhibit IV, the Declaration signed by each of the inventors indicates that this Exhibit was produced prior to July 22, 2002. Furthermore, since the first definition of the word "alter" appearing in the 10th Edition of the Merriam-Webster's Collegiate Dictionary is "to make different without changing into something else", it is submitted that the merchant by adding additional data into the transaction manager is indeed altering the transaction as recited in the last paragraph of claim 1, and contemplated by the present invention.

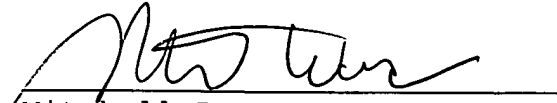
It is submitted that Exhibits I, II, III and IV do prove that the invention as recited in claim 1 was reduced to practice prior to July 22, 2002, the earliest prior date of the Kim reference, the Kim reference cannot be utilized by the Examiner.

Consequently, although it is believed that the present invention as claimed is not anticipated or suggested by the combination of the Kim and Hutchison references, due to the antedating of the Kim reference, it is not required to respond to the art rejection generated by the Examiner.

Based upon the aforementioned, it is believed that the present application should be allowed.

If any fees are due or owing, please charge Deposit Account 08-2455 the deficiency.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mitchell B. Wasson', is written over a horizontal line.

Mitchell B. Wasson

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